

P-421/EM-89-1105 ORDER GRANTING PETITION FOR RECONSIDERATION AND
REQUEST TO BE RELIEVED OF OBLIGATION TO PROVIDE FOREIGN TELEPHONE
DIRECTORIES FREE OF CHARGE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice M. Vick	Commissioner

In the Matter of a Proposal by
Northwestern Bell Telephone
Company to Begin Charging for
Telephone Directories and to
Make Refunds for Charges
Collected in Error

ISSUE DATE: December 24, 1990

DOCKET NO. P-421/EM-89-1105

In the Matter of a Commission
Initiated Investigation into the
Provision of Telephone
Directories

DOCKET NO. P-999/CI-90-590

ORDER GRANTING PETITION FOR
RECONSIDERATION AND REQUEST TO
BE RELIEVED OF OBLIGATION TO
PROVIDE FOREIGN TELEPHONE
DIRECTORIES FREE OF CHARGE

PROCEDURAL HISTORY

On November 22, 1978, the Commission issued an order requiring Northwestern Bell Telephone Company (NWB or the Company) to provide its customers with any Minnesota telephone directory the customer requested, "free of charge and without delivery charge." In the Matter of a Petition from Northwestern Bell Telephone Company for Authority to Change Certain of its Rates for Telephone Service Furnished to its Customers in the State Of Minnesota, Docket No. P-421/GR-77-1509, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (November 22, 1978) at page 57.

During Fall, 1989, Commission staff began discussions with Company staff regarding an apparent departure from the Commission's November 22, 1978 Order.

On December 13, 1989, the Company filed a request to be relieved of the requirement to provide free directories. The request also stated that a refund plan for directory charges made in error would be filed in the future. On April 26, 1990, the Company filed a proposed refund plan.

On August 30, 1990, the Commission issued its ORDER APPROVING REFUND PLAN, DENYING PROPOSAL TO CHARGE FOR TELEPHONE DIRECTORIES, AND INITIATING INVESTIGATION.

On September 19, 1990, NWB requested reconsideration of the August 30, 1990 order.

On October 16, 1990, the Department filed a response to NWB's request for reconsideration.

On November 28, 1990, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

In its August 30, 1990 Order the Commission:

1. denied without prejudice NWB's request to begin charging for directories and required NWB to continue to provide any Minnesota telephone directory to customers without additional charge;
2. required NWB to refund monies for directories it had collected in violation of the 1978 order; and
3. initiated an investigation into the Commission's policies regarding directory distribution by all local exchange companies and all long distance companies under a different docket. In the Matter of a Commission Initiated Investigation into the Provision of Telephone Directories, Docket No. P-999/CI-90-590.

NWB does not contest the Commission's decisions to require a refund and initiate an investigation into the Commission's policies regarding directory distribution. Nor does NWB dispute its obligation under Minn. Rules 7810.2900 to provide each of its customers with a directory without additional charge for the calling area in which the customer resides.

NWB does request, however, that the Commission reconsider the part of its August 30, 1990 Order which requires NWB to continue to discharge certain additional obligations with respect to provision of telephone directories. Specifically, NWB objects to being required to continue to provide its customers with a copy of any Minnesota telephone directory without additional charge. In addition, NWB requests to be relieved of what it believes is a requirement to provide non-NWB customers with directories without additional charge.

Provision of Directories to NWB Customers

Prior to NWB's 1978 rate case, it was Commission policy to view DA as an integral part of local telephone service that should not be charged for separately. The Commission continues to view DA

as essentially a local service. However, in the course of NWB's 1978 rate case, the Minnesota Department of Public Service argued on the basis of a NWB cost study that with DA costs included in the rates, DA was actually being subsidized by non-users of the service. The Commission decided to authorize separate charges for DA on an experimental basis, but as a way to continue customer access to telephone numbers state-wide without incurring NWB's DA charge, the Commission imposed the free directory requirement to assure that end users would continue to have a no-cost method of obtaining telephone numbers. Requiring NWB to provide its customers with directories for all Minnesota exchanges was reasonable because, during this predivestiture period, NWB was the sole provider of DA statewide and of long distance service to its customers

With divestiture, several changes have occurred that affect the reasonableness of maintaining that requirement. NWB no longer provides DA statewide, is no longer the sole provider of long distance calling within Minnesota, and is in fact prohibited from providing interLATA long distance calling. Today, interexchange carriers (IXCs) provide DA for numbers outside a customer's Numbering Plan Area (NPA or area code). With respect to long distance, numerous IXCs provide both intraLATA and interLATA long distance. In short, while NWB formerly stood for its customers as the central company to DA and long distance activity in Minnesota, today the telecommunications industry in Minnesota is considerably more diversified. In addition, the other entities providing DA in Minnesota (LECs and IXCs) are under no similar obligation to furnish foreign directories to their customers without additional charge. In such circumstances, requiring NWB to continue to be subject to this requirement will not be required.

NWB will continue to have the obligation applicable to all LECs in Minnesota to provide each of its customers with a directory for the customer's local calling area, including the areas to which the customer has EAS. Minn. Rules 7810.2900. This Order simply relieves NWB of the additional obligation it had under the 1978 Order to provide its customers, upon request and without additional charge, with one copy of any other Minnesota directory that the customer requested. The relief granted to NWB in this Order is interim in nature in that NWB's obligations with respect to the provision of telephone directories is not finally determined herein. The Commission's investigation into the provision of telephone directories (Docket No. P-999/CI-90-590) is ongoing and NWB's future obligations with respect to provision of directories will be determined in the context of that investigation and by any rule-making proceeding that may result from that investigation. Likewise, any over-receipt of revenue that NWB may receive by reason of having included the projected cost of providing foreign directories without additional charge in its 1986 rate base may be examined and adjusted for, if

necessary, when the Commission considers the revenue sharing provisions of the Company's incentive plan (In the Matter of Northwestern Bell Telephone Company's, d/b/a U S West Communications, Proposed Incentive Regulation Plan, Docket No. P-421/EI-89-860) or during the Company's next rate case.

Provision of Directories to Non-NWB Customers

NWB is mistaken in believing that it was ever required to provide directories to persons who were not its customers. The 1978 Commission Order that established NWB's obligations with respect to providing directories did not oblige NWB to provide directories to anyone who was not a customer of NWB. The Commission stated

Each customer [of NWB] is to receive any Minnesota telephone directory he wishes free of charge and without delivery charge. In the Matter of a Petition from Northwestern Bell Telephone Company for Authority to Change Certain of its Rates for Telephone Service Furnished to its Customers in the State of Minnesota, Docket No. P-421/GR-77-1509, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (November 22, 1978) at page 57.

In explaining the origin of this requirement in its August 30, 1990 Order, the Commission indicated that it never extended to non-customers:

One of the conditions [of authorizing [NWB] to charge for Directory Assistance (DA)] was that [NWB] would provide its customers with any requested Minnesota telephone directory without charge. Docket No. P-421/EM-89-1105, ORDER APPROVING REFUND PLAN, DENYING PROPOSAL TO CHARGE FOR TELEPHONE DIRECTORIES, AND INITIATING INVESTIGATION, August 30, 1990 at page 2.¹

Likewise limiting what was to be provided without additional charge, the 1978 Order used the singular "any Minnesota telephone directory." This phrase clearly did not require multiple free

¹ See also the Commission's Order authorizing NWB to charge for DA on a permanent basis on the condition that it provide its customers with directories from outside their local calling areas upon request and free of charge. In the Matter of a Tariff Filing Which Would Change the Directory Assistance Service Tariff From an Experimental Service Offering to a Regular Service Offering, Docket No. P-421/M-80-482, ORDER (June 16, 1981).

copies of the same directory to the same customer nor did it require NWB to provide a directory for any calling area outside Minnesota.

Customer Notice

The Commission's decisions in this order will change the way directories are provided to customers. It is appropriate to notify customers of these changes to avoid unexpected charges for directories which were previously provided without charge. Therefore, the Commission will direct NWB to provide notice, or to arrange the provision of notice, of these changes to directory customers.

NWB receives two types of requests for directories: one-time requests and standing requests. Standing requests are orders for copies of the same directory each time it is updated and published. It is reasonable for NWB to provide notice, or to arrange the provision of notice, to customers making one-time requests of the charges for directories when the requests are made. It is also reasonable for NWB to provide notice to customers with standing requests of the charges for directories before new directories are distributed and unexpected charges are incurred. NWB will be directed to provide written notice of the directory charges to customers with standing requests. The written notice must explain the changes approved by the Commission and indicate that standing requests will not be filled unless the customer renews the directory order and agrees to pay the associated charges.

Implementation Date

NWB will need a certain amount of time to implement the changes authorized in this Order. Therefore, the Commission will make the changes approved in this Order effective on December 31, 1990.

ORDER

1. Northwestern Bell Telephone Company's petition to be relieved of any obligation with respect to the provision of telephone directories beyond that imposed by Minn. Rules 7810.2900 is granted.
2. NWB shall provide notice, or arrange the provision of notice, to customers making one-time requests for directories of the charges for the directories. Notice shall be given when each request is made.

3. NWB shall provide written notice, as discussed above, to customers with standing requests for directories of the charges for directories. The notice shall be given no later than December 31, 1990.
4. The changes approved in this Order are effective December 31, 1990.
5. Northwestern Bell Telephone Company shall continue to participate in the Commission's investigation into the provision of telephone directories (Docket No. P-999/C I-90-590). NWB's obligations with respect to the provision of telephone directories is subject

ct to
Commi
ssion
deter
minat
ions
resul
ting
from
that
inves
tigat
ion.

6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)